

an intercity motor carrier of passengers under provisions of the zone of rate freedom shall file a formal complaint. The complaint may challenge only the reasonableness of the rate or fare under these special rules. Complaints on other grounds, such as discrimination or predatory practices, shall be filed under other sections of 49 CFR part 1131.

(b) A formal complaint must contain the correct, unabbreviated names and addresses of each complainant and defendant. It should set forth briefly and in plain language the facts upon which it is based. It should include specific reference to pertinent statutory provisions and Commission regulations, and should advise the Commission and the defendant fully in what respects these provisions or regulations have been or are violated or will be violated. The complaint should contain a detailed statement of the relief requested. Relief in the alternative or of several different types may be demanded, but the issues raised should not be broader than those to which complainant's verified statement is directed.

(c) Complainant's verified statement of facts and argument shall be filed simultaneously with its complaint, and they shall constitute complainant's case-in-chief. Whatever evidence is relied upon shall be set forth in sufficient detail to support the complaint, such as cost of service, rate or fare comparisons, or other information which may be pertinent (such as type of service rendered, distance traveled, or patronage experienced).

(d) Complainant shall serve a copy of its complaint and a copy of its verified statement on defendant on the same day that these pleadings are filed with the Commission. Such service and filing shall comply with § 1104.12.

[48 FR 44830, Sept. 30, 1983, as amended at 49 FR 44827, Sept. 30, 1984]

**§ 1142.2 Answer by defendant.**

The answer to the complaint shall contain the entire case-in-rebuttal, consisting of defendant's verified statement of facts and argument. It shall be filed within 20 days of the filing by complainant of the complaint and the verified statement. Defendant shall serve a copy of its statement on com-

plainant on the same day it is filed with the Commission. Such service and filing shall comply with § 1104.12.

**§ 1142.3 Reply by complainant.**

Complainant may file a reply to defendant's answer within 10 days after the defendant's answer is due. The reply may include evidence obtained by the complainant in response to a request for discovery. Defendant may file a reply within 5 days after complainant's reply is due to such evidence obtained on discovery which is not contained in the complaint and which complainant seeks to include in the record at this time. A reply shall be served on the parties on the same day it is filed with the Commission and comply with § 1104.12.

**§ 1142.4 Discovery.**

Discovery procedures shall be available to the complainant pursuant to our rules at § 1114.21, so long as the request is made at the same time the complaint is filed and seeks relevant information needed to support the complaint. Unless otherwise directed by the Commission, defendant (a) shall respond within 5 days, and (b) shall produce relevant information which is readily available. Defendant shall not be required to prepare and produce cost, traffic, financial, economic or other data not previously prepared. Defendant shall not be required to produce privileged information.

**§ 1142.5 Copies.**

An original and 10 copies of the complaint, statements, answer, replies, and discovery requests shall be furnished for the use of the Commission.

**PART 1143—PREEMPTION OF STATE JURISDICTION: PASSENGER RATES**

Sec.

- 1143.1 Applicability.
- 1143.2 Commission jurisdiction.
- 1143.3 Petition.
- 1143.4 Notification procedures.
- 1143.5 Opposition; deadlines.
- 1143.6 Rebuttal.

AUTHORITY: 49 U.S.C. 10321 and 11501(e); 5 U.S.C. 553.

SOURCE: 55 FR 11203, Mar. 27, 1990, unless otherwise noted.

**§ 1143.1 Applicability.**

These rules govern petitions for review, under 49 U.S.C. 11501, of State regulation of rates, rules, and practices of interstate passenger carriers providing intrastate service. (Commission preemption of State jurisdiction over passenger exit is covered at 49 CFR part 1169.)

**§ 1143.2 Commission jurisdiction.**

If an interstate passenger carrier has requested of a proper State authority permission to establish an increased intrastate rate, rule, or practice and all or part of the request has been denied, or the State has not taken final action (in whole or in part) on the request within 120 days, the carrier may petition the Interstate Commerce Commission for review.

**§ 1143.3 Petition.**

A petition for review shall include the following:

(a) A cover sheet indicating that the filing is authorized under 49 U.S.C. 11501 and that a decision must be made within 60 days.

(b) One copy of the entire State record, if available, and other, new relevant evidence. (No additional copies of the State record need be furnished for the Commission's use. Copies of the State record need not be furnished to the Governor, State authority, or other parties of record.) If the basis for the petition is State inaction, petitioner shall also submit a statement by counsel or a verified statement by a competent witness that the State has not acted within 120 days after the request.

(c) Other new, relevant evidence and written argument detailing reasons for review.

(d) Certification that the notification procedures at § 1143.4 have been met.

**§ 1143.4 Notification procedures.**

The petition for review shall be served, no later than its filing date, on the State Governor, the State authority, and on all parties to the State proceeding.

**§ 1143.5 Opposition; deadlines.**

Opposition statements may be filed as a matter of right by the Governor,

the State authority, or by any party to the State proceeding within 15 days after the petition is filed. All others wishing to participate shall file a petition for leave to intervene within 15 days after the filing. Opposition statements and petitions to intervene shall include argument establishing that the State action was reasonable and may also address any new evidence submitted by petitioner. Petitions to intervene shall also explain why an appearance was not entered in the State proceeding but is appropriate in the Commission proceeding.

**§ 1143.6 Rebuttal.**

Rebuttal to an opposition statement shall be filed within 20 days after the petition is filed. Rebuttal to an intervention petition shall be filed within 10 days after such petition is filed.

## PART 1144—INTRAMODAL RAIL COMPETITION

Sec.

1144.1 Notification, explanation, and justification.

1144.2 Negotiation.

1144.3 Suspension.

1144.4 Investigation of proposed cancellations.

1144.5 Prescription.

1144.6 General.

AUTHORITY: 49 U.S.C. 10321, 10703, 10705, 10707 and 11103; and 5 U.S.C. 553.

SOURCE: 50 FR 46066, Nov. 6, 1985, unless otherwise noted.

**§ 1144.1 Notification, explanation, and justification.**

(a) *Notification.* A rail carrier proposing to cancel a through route and/or a joint rate shall comply with the requirements of 49 U.S.C. 10762(c)(3) and 10705a(f), as appropriate, and 49 CFR part 1312, and shall give notice of its intent to make such a cancellation 45 days prior to the effective date of the cancellation. For cancellations under 49 U.S.C. 10705(e), the 45-day period must consist of at least a 25-day notice of intent to file followed by a 20-day tariff filing in compliance with 49 U.S.C. 10762(c)(3).

(b) *Explanation and justification—(1) Request.* After a rail carrier has given notice of a proposed cancellation, any